

Interview with Mr. Eshaam Palmer , 2011

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ESHAAM PALMER

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Q: It has been five days after the twentieth anniversary of the releasing of Nelson Mandela. It has been a very exhilarated week here. I am fortunate to have Eshaam Palmer here, who visited the United States in 1986 with Operation Crossroads and is Director of Environmental Compliance and Enforcement in the Department of Environmental Affairs and Development Planning, also the former Chief Parliamentary Legal Adviser, and Chief Director of Legal Services and the Office of Premier of the Western Cape. Dr. Palmer, tell us first- this is history. Tell us a little bit about your origins, your childhood, and your education; how it is that you fit into this very complicated society and your early professional development.

PALMER: My name is Eshaam Palmer, I am the son of parents of mixed race - you can term them colored people - a specific sub-group of the colored people that was classified as being of Malaysian origin. Essentially it is this group that follows the Muslim faith amongst the colored groups in South Africa. I had a normal childhood in Cape Town, went to a junior school and then a high school. We were an average working class colored family. My father was a carpenter and my mother was a dressmaker who worked from home. They have three children, two boys and a girl. We are all completed high school. My father worked to support us, and we had our own house. My mother worked to give us the

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extra bits that the other people did not have. So we did not have a deprived childhood, we had most things, we had a domestic worker, we had food every night, we had a car and a house. So we were a little above the average colored family. My dad opened up his own small construction company - which made life a little easier for us. But we were restricted since we were colored, and we did not get the opportunities to attend universities since they were beyond our financial capabilities.

When I completed high school I had little motivation to study further. I feel that I wanted to work so I got a job as a clerk in a government department. I worked there for nine years. The Department does not exist anymore as it was part of the “apartheid” administration, but compared to now it would be the Department of Social Welfare and Pensions. We dealt with welfare organizations and grants, and assisting them in establishing welfare organizations. After one year of being employed, when I was 19 years old - I realized that I couldn't work as a clerk for the rest of my life. So I decided to study on a part time basis. I registered for evening classes to study public administration in order to rise in the ranks of my employment. I completed a 3 year diploma course in public administration, and one of the subjects I took - was law. Immediately after completing that diploma, I again embarked on part time evening classes to gain a diploma in law. And after three years of part time study, I decided to continue my education in law by correspondence tuition. I continued working full-time whilst studying by correspondence. Eventually I spent 23 years at various universities studying part time. In this manner I acquired a B.Juris and B.Proc degrees in law in addition to the two diplomas I mentioned earlier. I also completed a BA in criminology, an honors degree in criminology, a masters degree in criminology, and ultimately a doctorate, in constitution law and criminology - looking specifically at punishment and how the new constitution in 1996 changes the whole “ethos” of punishment in South Africa by the abolishment of the death penalty and corporal punishment and also examined ways of alternative remedies - especially for juveniles.

Essentially UNISA's (University of South Africa) faculty of criminology supported the death penalty. I tried to get help publishing an article, but they would not, because it was not

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in line with their view on the death penalty. So they advised me to go to the University of Cape Town because their faculty of law and criminology were more supportive of the abolishment of the death penalty.

Q: Do you yourself have a strong opinion one way or the other?

PALMER: Well, from a religious perspective, I support the death penalty in a sense that there are certain crimes and criminals for whom the alternative for imprisonment places a heavier burden on society than on the victim. I look at examples like murder and rape, especially committed by psychopaths for whom there are no possibilities of rehabilitation. It would mean a great state expense, and society in general, but also the danger to co-prisoners and warders who have to care for them. Many warders have been killed over the years by people who have psychopathic tendencies and who harbour no sense of remorse.

Q: You say victims I guess you mean the families related to the victims.

PALMER: Yes, the victim spectrum is broad, because it is not only for the person who was killed or raped, but also the family of the perpetrator. They are also victims because every perpetrator has parents and families. And surely the parents did not teach or encourage them to commit serious crimes, and the parents loved them. Most of them probably had brothers and sisters and cousins - and those people loved them too. Those people are equally hurt when a crime like that is committed.

Q: What inspired you to write a paper about the death penalty imposed by error?

PALMER: It was the Christy murder in London in the mid- to late 1900s. Christy was a manipulative serial killer who convinced a simple minded boarder in his house to confess to one of the murders he committed. And this person was then subsequently found guilty of murder and executed on the basis of his confession. It later transpired that Christy himself had murdered the woman, and that the simple-minded person who confessed

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to the murder which he did not commit was someone who could easily be influenced to confess to anything if the right level of pressure was brought to bear on him.

Q: Someone said that if the death penalty is implemented in error, that in itself is reason to be against the implementation of the death penalty. Yet, you do not draw that conclusion?

PALMER: I think what I was trying to argue is that there should be greater safeguards, and that people should not be convicted or executed only based on confessions, as often happened during the "apartheid" era. And that the evidence should be so strong that is it not only beyond the reasonable doubt, but that is beyond any doubt. Not all cases of serious offences, like murder and rape would automatically (go to death penalty), but there would be certain cases where it would be absolutely no doubt that the person was the perpetrator.

Q: I am sure people have asked you what you mean by "absolutely no doubt".

PALMER: You see, one can with modern-day technology exclude certain people if you have, for example, forensic evidence like DNA profiles. In earlier days it was only blood tests, and a limited blood typing, but now with DNA and more sophisticated skin tissue type testing - one can eliminate certain people or one can implicate others, because if a person has raped a woman or murdered a person there may be blood or human bodily fluids that could lead to the identification of the perpetrator. In that way one can eliminate almost all other suspects. There has to be some scientific evidence, and it should not be based on confessions, or on evidence from persons who could have a motive to implicate the suspect. Scientific evidence can eliminate all other possible suspects. The death penalty should not be abolished, but it should be imposed only in rare circumstances where there is water-tight evidence.

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Q: We have gone a long distance in a very short time, we had you as a clerk, and in the social welfare department, and then you later - after many years of study- you acquired a doctorate in constitutional law and criminology. Now, always in the Cape?

PALMER: Mainly in the Cape, although, while studying at UNISA for a period of 23 years, I also studied at other institutions, and took shorter courses, for example, a two year course in labor relations at the Institute of Labor Relations. I also took a course in Business Management at the University of Stellenbosch, as well as a course in Criminology at the University of Cape Town.

Q: You are a professional student, in addition to the many other things, study is apparently a passion?

PALMER: Well, I believe in the principal of life-long learning, and that one never reaches a point where you could have learned everything you need or wish to know. Life changes so quickly and what you have learned during your university days has changed and adapted to changing circumstances and practices. If you are a lawyer, medical doctor or an engineer, that which you have learned at a university in the earlier years has changed dramatically within 20 to 30 years. Unless you stay up to date, and you keep abreast of changes, and technological advances - you will remain mediocre or even stagnate. And I mean Einstein and so many people have said that you use just a little part of your brain's capacity, and we reach a point that we feel that once we have a degree, once we have studied then we are finished and we can go to work. I believe that once you have completed your degree is actually the beginning of your education - because then you will find out so much more of the little that you already know. It does not have to be formal; it just means you have to increase your knowledge and your skills base as you go through life.

Q: As you have done, in shifting so many things - you are professional. You are now Director of Environmental Compliance and Enforcement - does that deal with Criminal or Civil law?

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PALMER: After the nine years of working as a clerk had its advantages because it wasn't mentally taxing or stressful - I had evenings free to study. It was during that time that I completed about three degrees. After that because of my legal qualifications I was transferred to the Department of Justice to become a public prosecutor. I worked as a public prosecutor for four years before I was identified as to become the first colored magistrate in South Africa along with Pamela Sickle in 1984. I stayed as a magistrate for a year, and the reason being that it was a tumultuous political period in the Cape in 1984 when public violence and political violence was mostly confined to black townships. But in 1984 - it extended to colored townships as well. That then embroiled people I lived with daily, and as a magistrate of course you were requested to preside over political trials of students who were protesting. And when I realized that I had no choice as a magistrate to preside over those trials people who had similar political views as I had I resigned from the bench. I resigned into unemployment, but immediately thereafter I was recruited by a law firm, and then decided to complete my articles, and, as such, I spent two years at the law firm. During this period I spent a lot of time defending the very students I was expected to punish and sentence. I defended a lot of young school students who were drawn into this whole sense of 'freedom was close by' and that education should come after liberation.

Q: What was your opinion of that notion about liberation then education?

PALMER: Well, it sounds nice, but it is a short term goal, which could have long term negative consequences, because once you have liberation you must have education to manage that new found responsibility. And if you are not educationally ready then even though you are free politically, economically you are not free. Because you will remain an 'underdog' and will only be able to do menial tasks. And those who had the opportunity to educate themselves would retain economic and employment positions.

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Q: So you were asked to be a prosecutor and a magistrate, but it was implied that you needed to prosecute people accused of violence, but they shared the same political views as you, therefore you resigned to rather become a defendant?

PALMER: Yes, remember this is South African law in the “apartheid” era, and at that stage had a legal principal for a common purpose for it had a specific interpretation. The common purpose doctrine means that if a group of say a hundred people, or part of that group committed an act of violence, then anyone associated with that group, by their mere geographical location could then be found guilty on the basis of common purpose, as they are presumed to have associated themselves with the act of violence. Especially young students in big groups were charged, because often when the police arrived at the scene the actual perpetrators would be long gone, because they stand the greatest danger of being arrested. So the police, not wanting to leave empty handed would arrest those persons close-by who they felt associated themselves with the group, whether they were by-standers or on-lookers or maybe they associated themselves with the event. Drawn into these events were many students who would have their career severely impeded if they were to go to prison because the only sentence they could get was imprisonment. Boys and girls of 16-18 years, who were in the beginning stages of their career and life, this would be significantly severe for them. I must mention that most of the cases they would be charged would prevent them from remaining in school. The majority in the judiciary had a very firm policy that those children who got involved in what seemed to be acts of violence should take the consequences. Many of them went to jail for a year or two.

Q: The system had many paradoxes and contradictions, so the principal of common purpose has to do with geographic location? The people were obliged to be there, they had no choice but to be there, if they violated various acts. So the system almost didn't permit the person to be innocent ever?

PALMER: To give you a very simple example, there could be tyres burning in the road in front of your house, you could come out to have a closer look and to see what was

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happening, and it could be viewed that you associated yourself with the act. Because it is not about your mental intention, it's about you being physically present when something wrong is happening. It was freely used as a way of making examples of people whose only crime it was to be present when an offence was being committed.

Q: This is not a perverse version of the legal system?

PALMER: I think it is a rational legal doctrine that comes from the Roman- Dutch law, and if properly used could have a just outcome, but it's also open to abuse. So you can extend the ambit of the doctrine, whereas the doctrine says you should be in very close in proximity, the court could say 'well, close could mean 20 meters away', so depending on the views of the judge and the prosecutor they could give it the necessary weight that would make them get the conviction they wish for.

There were some judges that would not use it, such as Judge Didcott of KwaZulu-Natal, and there were other judges that used it depending on their own political feeling.

Q: So seeing that with your legal experience, you preferred not to be a part of it?

PALMER: Yes, I made a decision of conscience in that I was not going to be making to any contributions to society. I would not put those people into prison. I am not saying that by defending them, I would be justifying any criminal actions. What I did feel was that these young people got swept up in this sense of freedom being around the corner, and to show the government that there were other ways of dealing with them. If, of course, they committed serious criminal acts like murder, arson, assault, etc, then the law must take its course. Most of them were swept up due to their adolescence, and their lack of knowledge and understanding of consequences.

Q: You implied that people got sucked up to the sense of imminent change. Many people in the 1980s could not predict that there would be, in fact that the changes from 1990. It

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was said in the 90s that it was difficult to predict any of this. Your sense is that the youth - there was something intangible feeling, that something really was imminently changing?

PALMER: Yes, because remember that in the colored community this type of resistance was not prevalent at that stage. It was mostly in the African townships. In the mid and late 80s they became prevalent in the colored townships, and the sense that people got was that the un-governability of the country was weakening the government's resolve. The government may decide that 'okay let's close up this African township and not allow the violence to spread'. Colored townships were a little bit different, they were closer to the main centers, and the white communities, and they were closer to the country's resources were. So it was a bit different when other groups got involved in the struggle for liberation.

Q: So in the 1980's you went to the US?

PALMER: Well, after I resigned from the bench as magistrate, I went into private practice as an attorney, and it was then that Frank Sassman contacted me and said that they were going to nominate me to go to the USA on an OCA scholarship. I had one interview which was unsuccessful, and I had another interview, and I think the chairperson was a man called Samir Qutab. I was successful after the second interview. I went in November 1986 to January 1987.

Q: How did you know Frank Sassman?

PALMER: I said in my two years of private practice, I dealt a lot with students who had got involved in political unrest and he was on one of the committees where we tried to prevent 17-18 year old school kids from having to go to jail, and to appeal these matters to the Supreme Court. Frank was on that committee, and that is where I got to meet him.

Q: What committee was that?

PALMER: I think the committee was simply called 'Campaign to save Bradley'.

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Q: Oh, so it was the Ed Heart committee?

PALMER: Yes, to rally around the boys' parents and I think he was around seventeen at the time. He was found running away from broken school windows and the police arrested him, and he was sent to a year in prison. We were rallying to get support to get an appeal to have the sentence suspended.

Q: So there was a committee formed for that particular case?

PALMER: As there were many committees in the community to try and raise funds public awareness around young people being imprisoned for public violence.

Q: Seeing Frank step out of his role as an employee of the US government, did that make a favorable impression on you?

PALMER: People I found who have worked in institutions like that, they don't only make themselves available in their free time, but also access to resources that we would never be able to reach. And I think one of the people that Frank Sassman got us into contact with was a British Lord who was temporarily in Africa. His name was Lord St. John. It was also a way of getting a member of the House of Lords to issue a small statement to say that 'young students shouldn't be in prison'. So he gave us access to people we wouldn't normally have access to because of his employment.

Q: So you met a visiting member of the House of Lords, and introduced to you Frank?

PALMER: Frank Sassman was part of a group that spread out its feelers to contact influential people who would rally to our cause. Frank was not necessarily the specific individual who introduced us to the Lord, but he was a part of the group that was looking at influential voices. The name of the Lord was St. John, but it is pronounced Sinjen. He stayed in South Africa for a few months; he is now back at the House of Lords.

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Q: At this time, South Africa was not part of the common wealth?

PALMER: No, they were not, but in addition to him being a member of the House of Lords, he was also a director of Shell International which made him very influential in the business sense.

Q: The government of South Africa did certainly not appreciate this?

PALMER: No they were unhappy with it, and I think that he was a person who spoke his mind. And his view was that young people should not be in prison especially when they are around 17 years old, and if it's not a very serious crime, like you know in a political sense, breaking school windows. He spoke his mind, and the government publicly criticized him for meddling with South African affairs. But he stood by what he said, and he eventually left for Great Britain.

Q: This adds to a story of international pressure?

PALMER: Yes, part of the international pressure.

Q: On the one hand is the stick, but also the carrot of the bursaries that were provided by various contributors and programs, like OCA. Was there any difficulties of a political nature in the UK when you came, even being here if the South Africa had been exiled ...from the common wealth?

PALMER: No.

Q: Easy for him to come here, and difficult for South Africans to go there?

PALMER: Well, he lived here for a while; he spent his childhood here, because he is a hereditary Lord which means that his grandfather was a Lord. So he grew up in South

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Africa, and then he went over to Great Britain, and then he came back as a result of being stationed here by Shell. It was during that period that we got to use his expertise.

Q: So his grandfather was here during the Boer War. So this brought into contact was context where one thing leads to another, and he encouraged you to apply?

PALMER: It was a nomination, he nominated me. And then I had to fill in application forms.

Q: These six weeks must have been disrupted to your work?

PALMER: No, what I had done then, I had just completed my two years of articles. And then I got permission to get unpaid leave for that period. So it wasn't disruptive to my work. I decided that when I came back I would not continue in private practice, but instead lecture in law at a tertiary institution.

Q: So this was a break from private practice as you might have had anyways?

PALMER: Because, remember I wasn't young at that stage, I was in my late early 30s, I had a wife and three children.

Q: Did you understand what you were getting into when you became a candidate for the OCA trip, did you want this? Did you understand what it was all about before going?

PALMER: Well, at that stage I had never been outside of South Africa, and due to my relationship with Frank and with other people who had been to the USA, especially in the field of juvenile corrections, I had a yearning to visit foreign countries, including America and to see what the rest of the world looked like. At that time, South Africa was reasonably isolated, and we did not have much foreign exposure. After that I was lucky, I got to go to the USA, on two later occasions to go and study. They were not through scholarships, but through employment related opportunities. I went to New Orleans in 1996 for a few weeks to study legislative drafting at Tulane University. And I also went to an IBA conference in

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San Francisco in 2001 for a week. I was a member of the International Bar Association (IBA).

Q: Focusing on the OCA trip, the point was to see America, where did you get to go?

PALMER: I started in Boston with a little orientation, from there to the University of Nevada, in Reno, Nevada. The University of Nevada has a faculty that actually specializes in teaching judges, and magistrates all over the world in the art and principles of judicial sentencing. And that was what eventually my masters degree and doctorate.

Q: So that is a direct result perhaps from you're your trip to the US?

PALMER: Yes, absolutely! It widened my understanding of the importance of punishment and appropriate penalties. It was a unique faculty, because you don't get faculties that specifically train judges and magistrates, it's usually left to trial and error.

Q: In the US?

PALMER: No, all over the world. But in the US, the University of Nevada had this program with some faculty.

Q: Now, those where the luxurious days when people had six weeks, now it is three weeks I think. So did you spend a week or two in Nevada?

PALMER: A week, and then we spent five days in Washington D.C., five days in New York, two days in Salt Lake City in Utah, and a brief weekend visit to a farm in the South. It was a southern farm, owned by a black farmer in Mississippi.

Q: Most Americans don't even get to see that much of the country. And this was a mixture of professional, cultural and social. Which aspects of it were most appealing to you, or was it equally appealing to you?

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PALMER: The University of Nevada, was the best place for giving effect to my intention to pursue a doctorate in punishment and constitutional law, but the visits were not only sightseeing, we visited institutions that dealt with juvenile delinquents. In New York, the House of UMOJA fascinated me - and the lady, which I don't think is alive now, her name was Falaka Fattah. She managed the institute and what they did was, diverting young people from the criminal justice system. So if they were found guilty of theft, for example, instead of sending them to jail, they were sent them to the House of UMOJA and essentially what they did was to teach them responsibility. They went into the poor areas, and they would choose a house that was dilapidated, and they would rebuild the house to make the inhabitants feel like they lived in a decent house. The program included repairing and upgrading abandoned house for their own use. Then they lived there and paid rent, and the money went to the institution to further its program.

*Q: So instead of prison terms, they did work that the community would benefit from?
Discipline and environment outside of prisons.*

PALMER: They had to be, of course, suitable candidates, so there had to be some sort of review and assessment. And once they were found to be suitable, they were sent to this half-way house for about six months. Essentially they were taught levels of responsibility by having to build a house, and it was extremely successful.

Q: Have you seen anything of that sort before?

PALMER: No, that was the most practical manifestation of giving people the sense of belonging by actually having them build houses and apartments that they could eventually rent and live in and get the sense that they made some contribution to society. And the level of recidivism was extremely low. I don't think anyone of those who had actually been a part of the problem that built apartments and lived there went back to lives of crime.

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Q: This is remarkable. Was this a model that was useable at all in South Africa? Theoretically or practically?

PALMER: Well, aspects of it. One of the aspects was the aspect of getting ownership of projects. Often you are a part of a project then you leave. And there is no lifelong sustainability involved, whereas this could be a project where people are given some land and are allowed to farm and own parts of the land, so they can develop a sense of ownership and responsibility. A lot of the principals and aspects of the program can be used in similar projects and programs in South Africa.

Q: Could there be such an establishment, and do you think it should be in South Africa? Of offenders, and let's say the lesser offences. Who could do this type of constructive behavior rather than being in prison?

PALMER: Yes, but such programs are in its infancy in South Africa. NICRO (National Institute for the Prevention of Crime and the Rehabilitation of Offenders) and other organizations do have diversion programs, and now with the South African Child Justice Act - which was passed 2-3 years ago. There is now a formal process of which children can be diverted from the criminal justice system into programs, similar to those that I saw.

Q: Fascinating, where there any other models, obviously the sentencing specials that you know led to your doctorate - that's an amazing story. And then your farm stay was that a weekend or a long weekend?

PALMER: The farm stay was a little bit of relaxation and getting to meet the average American family.

Q: So this is a vast experience and you hadn't left your country prior to this trip, how did this change things?

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PALMER: I think being exposed to a sophisticated, well developed and financially strong country was crucial. Also to travel with many other people from Africa and the Caribbean, because although South Africa in comparison to America is not nearly as developed, in comparison to the rest of Africa it is reasonably well developed. You just have to look out and see.

Q: Yeah, it's amazing. South Africa is really a first world country in Africa, particularly this part of Cape Town. What did you gain by meeting other participants from the Caribbean and other African countries?

PALMER: Well, to see how far South Africa has progressed, even without being a democratic society, and how much further we have progressed from other African countries, merely because there was a will, even if the will was not always politically correct, to develop South Africa economically, into a stable environment.

Q: So this put your own native country in a more favorable light in some way than it had been previously?

PALMER: Yes, and if you look at some of the African countries, even that time Sudan, Zimbabwe and Angola, they had favorable natural resources but they weren't being used to develop the country in a sense of education and economic development. South Africa - despite the fact that it had abhorrent political policy, nevertheless developed its people, although the white elite that ruled the country did not politically give people rights, but they certainly developed it economically to be a model that Africa could emulate.

Q: How were you accepted in the OCA group... sometimes South African were considered different by the general group of people from Mali, Nigeria, Senegal and Sudan as you said. Did people easily integrate you into the group of an African?

PALMER: Besides the language differences because certain African states, that speak French - only speak French, and there is a language barrier there, those who speak

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Portuguese - only speak Portuguese, and no English. The Francophone and the Portuguese tend to group together, but the English speaking African states were much easier to converse with, like Zimbabwe and Zambia. And they did view South Africa as being a little bit of a big brother, being developed and not having to go through the same pain and suffering that they did, although they went through political pain too, they go through economic pain and suffering, because of their poverty. Even under "apartheid" there wasn't the level of poverty amongst the black that you see amongst the rest of Africa.

Q: They either admire you or envy you?

PALMER: Yes, especially on the educational level that we had a very good school system in South Africa, even under "apartheid". The African schools certainly had the 'thin edge of the wedge' in this regard, although some former colonial countries had good education systems, like Zimbabwe and Zambia.

Q: Did other Africans consider you privileged? Did they just perceive South Africans as "monolithic giant?" Did they appreciate these differences that you just mentioned.

PALMER: I don't think they understood the differences, they saw South Africans as generally being economically privileged.

Q: Where there other South African in the group you where in 86? Sometimes more than one, usually OCA gathers 30 or 40 people at a time.

PALMER: Not in my group. Because I certainly would have hung out with a South Africa, but my friends were from Ghana, Zimbabwe and Somalia. In order to prevent people from the same countries from congregating together, formal groups were made up from different countries.

Q: Somalia?

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PALMER: Yes, she was a doctor, a medical doctor. She spoke many languages, Italian, English, Somalia and Arabic. Her name was Nurta Hassan.

Q: Those were they good days. When Somalia had a government, not a good one, but they had a government.

PALMER: Siad Barre was the president, and he was a dictator, but at least he kept Somalia together.

Q: Oh, Somalia - it seemed so promising in the 80s. One wonders, what might have happened with your friend?

PALMER: I often wonder what happened to her, she worked for Siad Barre, I mean she was connected to that political elite. So politically she might not have been in order, but she lived outside of Somalia for many years, so maybe she went into exile. Her husband was a businessman, and she was a medical doctor, they lived in Italy for many years, and that's also why she could speak Italian. So maybe she is living elsewhere, but she gave me a book when she left - an English version of the Quran. The reason why she and I became friends was because we are both Muslim.

Q: OCA divided up in little sub-groups; she spoke English, and you did too so was it possible that you were in the same sub-group?

PALMER: Yes, she was in the English group too, and then the French were in a different group.

Q: Again, the theme of this study is outsmarting apartheid. In what ways do you think you were able to do that? With or without the exposure to the United States?

PALMER: I think that the way in which I could by-pass the "apartheid" limitation - was by educating and skilling myself, even though it might have been window-dressing by getting

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blacks into to the justice system, without that education and exposure we would not be able to get into the justice system, so by educating ourselves and exposing ourselves to different cultures and different ideas, I think that made me bypass the rigid restrictions of "apartheid".

Q: Tell us about what is happening with you and the country since '87?

PALMER: I think that what the government feared was that people would see that people of all races could live together in the same neighborhood without killing each other. And those are the things we saw, though America still has racially divided communities, if you go to New York, in the suburbs for example, almost all the suburbs are racially exclusive. People were not forced to live there; people lived there because they wanted to or because they were forced to due to economic circumstances, as opposed to South Africa - where we didn't have another choice. I think South Africa has come a long way, and has gone through a steep learning curve, so much so that we have almost surpassed a lot of countries in its nation-building. Although the one thing you do notice when you are in America - is that people do have - especially amongst blacks - unhappiness over the economic lot. There is a sense that if you are American, that in itself is a big plus, and a bonus in your life, the sense of being an American. The Africans are starting to develop that sense of nationhood, and you know, we think that these things are not going to happen over night. And when I met with a Danish group one day when I was lucky to study the parliamentary system in Denmark, they said that South African transformation, would take at least 75 years. And I don't think they are completely wrong. I think it will certainly not take 20 years, but it will be a long process. It's going to take many years before South Africa becomes an equal society.

Q: Did the Danish government invite you to come?

PALMER: I worked at the South African Parliament; I was the Chief Legal Adviser for a number of years, and as part of my work, parliament sends people to different parliaments

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to see how they work, and to bring back some of the ideas, so I went to Denmark for about a week, to study the committee system, and to see which aspects of it we could introduce, cause at that time South Africa parliament was now developing. And that's one of the reasons I went to New Orleans as well - to study legal drafting, so we could implement some of the methods and programs.

Q: Go back to Denmark for a minute - did you find a committee system comparable to what you saw in Washington? You were not studying that in Washington per say, but you must have had a sense?

PALMER: Well, yes there is a contrast between the committee systems in the American system that separates it from the European systems. And that is - that in the American system the committees are very powerful, and they can make or break legislation and politicians. And if you look at sub-committees that interview people for senior positions, sub committees, or committees (the European and especially the British system are at a much more docile level, and they really look at the technical aspects of legislation. And in the American system there are certain powerful committees whose power derives not from Congress, but from the committees themselves.

Q: A judge appointment will go forward and there can be political distractions. Which of the two does South Africa resemble more?

PALMER: The South African system is a bit of a hybrid, and certain committees have developed a level of power like SCOPA (Standing Committee on Public Accounts), that monitors government spending. But other committees have become merely just mechanical, for examining legislation, corrections and otherwise, but they don't have and any independence from parliament. So not all committees have a level of independence. It also depends on the power of the minister, he/she pushes through legislation, it takes a strong and independent committee to withstand the ministry and properly interrogate legislation.

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Q: So the executive has the greater role here?

PALMER: Yes, that is true, and I think that it depends on the role and style of the President. Under President Mbeki, the executive was strong and power was centralized whereas the committees were weak and merely rubber stamped legislation. President Mandela allowed committees to speak their minds.

Q: I think in any system, the personal strength of the individual who is a head of executive does affect the system. Lyndon Johnson knew about committees and understood how they worked in Congress in a way that other presidents did not. I think that it's a personality thing.

PALMER: Absolutely, it does have an effect.

Q: This is all rich information, do you have anything to add? This country has come to an enormous decision as you have said. It's an unrealized mission as any country I guess who's doing some good things, it's not perfect.

PALMER: Well, Also on my trip to Denmark, we met with the minister of Environmental Affairs, and what we saw there was that Denmark does not have many of the problems that many other countries have. Crime and poverty is low, the government is stable, so they excel in the area of protecting the environment, and that made me realize that at some point South Africa and other countries in the world must reach a point where protecting the environment becomes 'top of the agenda'. Because ultimately a good environment will lead to a good economy, because if you destroy the fields - you are not going to have corn growing, and if you destroy the rivers - you will not have any fish. Although environment sounds a little bit fluffy and up in the air - it is also very practical. And now when you see what global warming has done , you realize that it actually makes you spend money on repairing things, rather than see what the climate could do and then take preventive and rehabilitative measures, and use the money in a wiser way. And by

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using the power of the sun, and the power of the water, you could create jobs and energy at the same time!

Q: At the Copenhagen Conference in December 2009 - if you remember there was a leaked memo and some people were saying that there is no scientific basis to say that there is global warming. I believe that this is only a tiny minority, and very few scientists believe that. As a person deals with environmental issues yourself, is there any doubt that we are seeing a climate change? Do you have an opinion of that?

PALMER: There are good examples of climate change. Millions of years ago there was an ice-age, and after that the world's climate changed to what it is today. The question is about whether or not the activities of human beings contribute to weather changes, because we moved from ice age, to a dry age and all different ages. So, yes - but the questions are: are we speeding it up, and are we doing so to our detriment? At the end of the day - you need to protect the environment for future generations, they are going to have to be able to plant on soil that is usable, and if you misuse the soil and the sea, then you might as well decide not to have children, because if you have children those children will suffer the consequences of whatever you do to the environment. So whether or not we contribute to global warming, we should ensure that we ourselves in our old days live in a world that is sustainable.

Q: This is now your fulltime position, did this occur from your trip to Denmark?

PALMER: No, well the seeds were planted there, but I have reached a point where I have practiced law and I understand that I can perhaps use my knowledge of law in the area of the environment to ensure and to regulate compliance with laws that have been drafted to ensure that we have sustainable development and sustainable economic policies

Q: Where does South Africa stand on the Charter of Nations in terms of self-abuse and self-correction?

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PALMER: In South Africa that happens more as a result of poverty and ignorance than as a result of government wanting to develop like perhaps, China - who is pushing the level of development to the extent that it is going to hurt the environment. Whereas in South Africa I think they do it on a much more logical and rational basis. But poor people will cut down trees and fish in rivers if they are hungry. Unless you can educate them, or you can try to rehabilitate the land, ignorance and poverty is probably what causes a lot of the degradation of the environment.

Q: So you have shifted three or four times in a major way in your profession. It was administration, then the penal system, then you were an advocate and now an environmentalist. What is the next step for Dr. Palmer?

PALMER: I try not to plan far ahead, and I take life as it comes, and this opportunity presented itself. I didn't look for it, it was said to me 'look there is a position there as they are trying to fill' because there are not many environmental lawyers around, and I said: "Well I can learn." So I took the challenge and now I am in the deep end and I enjoying it.

Q: That is fantastic. This brings us up to the present moment. Any other thoughts that you want to have on record?

PALMER: It is heartening to see that America - which has so much economic power, and such a beautiful and vast country - is also starting, or the government is starting, to reflect the American peoples' concern about the environment. Because although the American government has the image of not being adequately concerned about the environment. Clearly the people of America are very concerned about the environment; you just have to look at how the Americans look after their gardens, after lakes, rivers, hybrid cars...

Q: My personal politics is that the subject has been neglected and I think it can be said that previous executives did not assist the Environmental Protection Agency, in fact, quite

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forcibly limited the powers of EPA, whereas now some of those powers are being restored in what appears to be hopeful.

PALMER: I think the focus of the previous administration was driven a lot by what happened at 9/11, it almost consumed the administration with the consequences, and the causes of 9/11, that environment was not a top priority. And I think as more pressure groups in America raised their voices and people all over the world, probably tried to make America understand that there will be no dramatic change on the protection of the environment unless America also does its part.

Q: So your perception is that the American public is actually driving policy in the US?

PALMER: I think there is a greater understanding for the need for environmental correctness amongst the people of America than amongst the government over the past 10-15 years. That's just my perception.

Q: Fascinating, that's what we are here to discuss. Sometimes the perception of a country includes certain accuracy that comes from outside the country because when they are emerged in a sort of information overloads, and inevitably they're biased because of constantly being swept inside the Petri dish.

PALMER: One image that I left America with was the significant and strong love Americans have for their country. Americans cannot be adverse to a good environment, because they love their country, they love the gardens, and they love their rivers that flow by, so Americans have a very strong sense of the environment. And the fact that the government hasn't expressed that doesn't mean that the American people themselves haven't had that strong feeling for the environment.

Q: Well, thank you very much, your comments have been great.

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End of interview